

STATE OF SOUTH CAROLINA)	IN THE COURT OF COMMON PLEAS
)	
COUNTY OF JASPER)	CIVIL ACTION NO.: 2023-CP-27-_____
)	
Vicky Williams and Johnnie Wright,)	
)	
Plaintiffs,)	
)	
vs.)	SUMMONS
)	
Vivian Lesco,)	
)	
Defendant.)	
_____)	

TO: DEFENDANT AND HER COUNSEL

YOU ARE HEREBY SUMMONED and required to answer the Complaint herein, a copy of which is herewith served upon you, and to serve a copy of your Answer to said Complaint upon the subscriber, at 1544 Fording Island Rd, Suite A Hilton Head, South Carolina 29926 within thirty (30) days after the service hereof, exclusive of the day of service, and if you fail to answer the said Complaint within the time aforesaid, the Plaintiff will apply to the Court for the relief demanded in the Complaint, and judgment by default may be entered against you.

MORGAN & MORGAN

BY s/ Lauren Carroway, Esq.
 Lauren Heath Carroway
 SC Bar Number 72588
 1544 Fording Island Road, Suite A
 Hilton Head, South Carolina
 (854) 222-6075

Attorneys for Plaintiff

Hilton Head, South Carolina
 April 25, 2023

STATE OF SOUTH CAROLINA)	IN THE COURT OF COMMON PLEAS
)	
COUNTY OF JASPER)	CIVIL ACTION NO.: 2023-CP-27-_____
Vicky Williams and Johnnie Wright,)	
)	
Plaintiffs,)	
)	
vs.)	COMPLAINT
)	
Vivian Lesco,)	
)	
Defendant.)	
_____)	

NOW COMES Vicky Williams and Johnnie Wright, Plaintiffs in the above-captioned action, and submits their Complaint against the Defendant as follows:

Identity of Parties and Jurisdictional Allegations

1. Vicky Williams is a citizen and resident of Jasper County. Plaintiff subjects herself to the jurisdiction of this Court by filing the present lawsuit.
2. Johnnie Wright is a citizen and resident of Jasper County. Plaintiff subjects herself to the jurisdiction of this Court by filing the present lawsuit.
3. Upon information and belief, the Defendant is a resident of Welland, Ontario.
4. This is an action for negligence, negligence per se, and gross negligence regarding a motor vehicle accident which occurred in Jasper County.
5. This Court has jurisdiction over the parties and subject matter of this action.

Facts Common to All Counts

6. All preceding allegations are realleged as if fully repeated verbatim herein.
7. On or about December 30, 2022, at about 10:35 a.m., Vicky Williams was traveling North on Road 13 in Jasper County.
8. Johnnie Wright was a passenger in the car driven by Vicky Williams.

9. At the same time and place, Defendant, Vivian Lesco, failed to stop at a stop sign, causing her vehicle to strike Vicky Williams' vehicle, resulting in bodily injuries to Vicky Williams and Johnnie Wright.

FOR A FIRST CAUSE OF ACTION
(Negligence/Negligence Per Se/Gross Negligence as to Defendant Lesco)

10. All preceding allegations are realleged as if fully repeated verbatim herein.
11. Defendant Lesco was negligent, willful, wanton, careless and grossly negligent at the time and place above-mentioned in one or more of the following particulars:
- a) In failing to yield a right of way in violation of South Carolina Code 56-5-2350;
 - b) In failing and omitting to keep a proper lookout while operating a motor vehicle under the circumstances then and there prevailing;
 - b) In failing and neglecting to keep the vehicle under proper control or so to control the same as to have avoided the collision;
 - c) In driving and operating said vehicle upon a public highway in the State of South Carolina without exercising the degree of care, caution and prudence in the operation of said vehicle that a person of ordinary care, caution or prudence would have exercised under the same or similar circumstances;
 - d) In driving a vehicle with reckless disregard of life and property in violation of the S.C. Code of Laws 56-5-1900.
 - e) In such other particulars that the evidence may establish.
12. The foregoing acts and omissions by the Defendant were the direct and proximate cause of Plaintiffs' injuries, resulting in Plaintiffs' conscious pain and suffering. Such said acts and omissions of the Defendant are in violation of the statutes and laws of the State of South Carolina.

13. As a direct and proximate result of Defendant's negligence, Plaintiffs have sustained permanent injuries which have required medical treatment and related expenses, and Plaintiffs have missed time at work resulting in lost wages.
14. Plaintiffs are informed and believe that they are entitled to judgment against the Defendant for actual damages and punitive damages as may be set by jury.

WHEREFORE, Plaintiffs are informed and believe they are entitled to a judgment against the Defendant and pray for judgment against the Defendant in such amount to be determined by the trier of fact, together with punitive damages in an appropriate amount, the costs of this action and for such other and further relief as this court may deem proper.

MORGAN & MORGAN

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Attorneys for Plaintiff

Hilton Head, South Carolina
April 25, 2023

STATE OF SOUTH CAROLINA
COUNTY OF JASPER

IN THE COURT OF COMMON PLEAS
CIVIL ACTION NO.: 2023-CP-27-195

VICKIE WILLIAMS and
JOHNNIE WRIGHT,

Plaintiffs,

v.

VIVIAN LESCO,

Defendant

**DEFENDANT VIVIAN LESCO'S
MOTION TO DISMISS**

COMES NOW Defendant Vivian Lesco (“Defendant Lesco”), by and through her undersigned counsel, and moves the Court pursuant to South Carolina Rules of Civil Procedure Rules 4.1, 12(b)(2), 12(b)(4), and 12(b)(5) for an Order dismissing the Plaintiffs’ Complaint for lack of personal jurisdiction, insufficient process, and insufficient service of process. In support of this Motion, Defendant Lesco shows unto the court the following:

1. Plaintiffs filed this lawsuit against Defendant Lesco alleging that they sustained injuries resulting from an automobile accident.
2. Plaintiffs allege that Vickie Williams was the driver and Johnnie Wright was the passenger in a vehicle which collided with a vehicle driven by Defendant Lesco on or about December 30, 2022 in Jasper County, South Carolina.
3. Defendant Lesco is a citizen and resident of Ontario, Canada.
4. Rule 4.1 of the South Carolina Rules of Civil Procedure specifies that an individual who is a citizen of a foreign country may be served by “any internationally agreed means of service that is reasonably calculated to give notice, such as those authorized by the

Hague Convention on the Service Abroad of Judicial and Extrajudicial Documents (hereinafter the “Hague Convention”).”

5. Canada is a signatory of the Hague Convention, and therefore service on a Canadian resident in Canada requires that service comply with the terms of the Hague Convention for service to be proper under Rule 4.1.

6. Upon information and belief, Defendant Lesco received a bare copy of a summons and complaint from an unidentified person with no additional information or indications of service compliant with the requirements of the Hague Convention.

7. Upon information and belief, Defendant Lesco has not received sufficient process.

8. Upon information and belief, Defendant Lesco was not properly served with process pursuant to the relevant provisions of the Hague Convention.

9. Plaintiffs’ Complaint should be dismissed pursuant to Rules 12(b)(2), 12(b)(4), and 12(b)(5) of the Rules of Civil Procedure. The process received by Defendant Lesco was insufficient; and service of process was insufficient pursuant to Rule 4.1 and the applicable provisions of the Hague Convention to establish personal jurisdiction over Defendant Lesco, a Canadian resident, or effectuate proper service.

For the foregoing reasons, Defendant Lesco respectfully requests that the Court dismiss Plaintiffs’ claims against her with prejudice for insufficient process, insufficient service of process and lack of personal jurisdiction. This Motion will be supported by any memoranda of law, documents, affidavits, and other documents and evidence as may be appropriate, as well as the arguments of counsel at any hearing on the Motion.

This the 28th day of June, 2023.

GOLDBERG SEGALLA LLP

/s/ John I. Malone, Jr.

John I. Malone, Jr.

SC State Bar No. 101962

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Greensboro, NC 27408

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Attorney for Defendant

STATE OF SOUTH CAROLINA)	IN THE COURT OF COMMON PLEAS
)	
COUNTY OF JASPER)	CASE NO. 2023-CP-27-0195
)	
VICKY WILLIAMS AND JOHNNIE)	
WRIGHT)	
)	
Plaintiffs)	
)	
v.)	NOTICE OF APPEARANCE
)	AND CONDITIONAL ANSWER
)	
VIVIAN LESCO)	
)	
Defendant)	
)	

YOU WILL PLEASE TAKE NOTICE that State Farm Mutual Automobile Insurance Company, while reserving the right to deny that there is uninsured or underinsured motorist coverage afforded by any State Farm policy issued to or covering the Plaintiffs under the facts of this case, hereby enters this Notice of Appearance and Conditional Answer in the above-captioned case pursuant to South Carolina Code Ann. §38-77-150 (1976, as amended) and/or §38-77-160 (1976, as amended), in response to the Plaintiff's Complaint. By entering this limited appearance and conditional answer, State Farm does not admit that there is any uninsured or underinsured motorist coverage afforded to the Plaintiffs, does not agree that service is proper, and does not waive or in any way prejudice its right to deny that this is an uninsured or underinsured motorist case.

State Farm specifically demands a trial by jury pursuant to Rule 38 of the South Carolina Rules of Civil Procedure. The undersigned further states that he and his law firm at this time do

not represent the Defendants and are not at this time undertaking such representation, but are specifically reserving the option to assume control of the defense in the name of the Defendants pursuant to the uninsured and/or underinsured motorist statute should the carrier choose to exercise that option.

This appearance is made pursuant to S.C. Code §38-77-150 (1976, as amended) and/or §38-77-160 (1976, as amended). To the extent that a responsive pleading is required, the undersigned denies each and every allegation of the Complaint, asserts those affirmative defenses set forth in Rule 8 of the South Carolina Rules of Civil Procedures, contests service and personal jurisdiction, and raises those defenses set forth in Rule 12, all to the extent they are applicable, including but not limited to lack of personal jurisdiction and insufficient service of process.

The undersigned reserves the right to file a full Answer at such time as it assumes the defense of this case or thereafter.

Respectfully Submitted,

GRIMBALL & CABANISS, L.L.C.

By s/Michael J. Ferri

MICHAEL J. FERRI

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ATTORNEYS FOR STATE FARM MUTUAL
AUTOMOBILE INSURANCE COMPANY

Charleston, S.C.
July 10, 2023

STATE OF SOUTH CAROLINA)
)
 COUNTY OF JASPER)
)
 Vicky Williams and Johnnie Wright,)
)
 Plaintiffs,)
)
 vs.)
)
 Vivian Lesco,)
)
 Defendant.)
 _____)

IN THE COURT OF COMMON PLEAS
 CIVIL ACTION NO.: 2023-CP-27-00195

ACCEPTANCE OF SERVICE

I, the undersigned, do hereby state that on the 16th day of August, 2023, I accepted service of the Summons, Complaint, Plaintiff's First Request to Admit to Defendant, Plaintiff's First Set of Interrogatories to Defendant and Plaintiff's First Request to Produce to Defendant on behalf of the Defendant, Vivian Lesco.

GOLDBERG SEGALLA



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Greensboro, North Carolina
 August 16th, 2023